

# **Appendix 10**

## **Necessary Project Findings and Approvals**

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## Appendix

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Regardless of the development alternative selected, action will be required at the federal, state, and local level. The types and groups responsible for the action include the following:

### **REQUIRED ACTIONS**

Among the types of actions likely to be undertaken by the FAA as lead agency in the normal course of implementing the proposed projects include:

- A determination under 14 C.F.R. Part 157 (*Notice of Construction, Alteration, Activation and Deactivation of Airports*) and 49 U.S.C. 40113(a) (*Transportation*) as to whether or not the FAA objects to the airport's development proposal from an airspace perspective, based on aeronautical studies.
- A determination, through the aeronautical study process, under 14 C.F.R. 77 (*Objects Affecting Navigable Airspace*) and 49 U.S.C. 40103(b) (*Sovereignty and use of airspace*) and 40113 regarding obstructions to navigable airspace.
- Decisions regarding project eligibility for federal grant-in-aid funds under 49 U.S.C. 47101, et seq. for implementation of the proposed actions.
- FAA approval of the Airport Layout Plan<sup>1</sup>.
- FAA authorization for the approved actions in a Record of Decision (ROD)<sup>2</sup>.
- Possible approval of an amendment to the Airport's Certification Manual per 14 C.F.R.139 (*Airport Rescue and Firefighting Requirements*) and 49 U.S.C. 44502(b) (*General Facilities and Personnel Authority*).
- FAA approval for any relocation or upgrade of existing navigational aids per 49 U.S.C. 44502(a)(1) (*Transportation*).

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<sup>1</sup> An Airport Layout Plan is a scaled drawing of existing and proposed land and facilities needed for the operation and development of an airport.

<sup>2</sup> A Record of Decision (ROD) is the formal decision document for an environmental document which is recorded for the public.

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The following permits, statements of concurrence, and clearances may also be required from other agencies:

- 49 U.S.C. 47107(a)(10) (*Project grant application approval conditioned on assurances about airport operations*). Requires that assurances be obtained by the airport sponsor to demonstrate that appropriate action has or will be taken, to the extent reasonable, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with safe and efficient airport operations. ADOT&PF will need sufficient land interests to all properties needed for normal airport operations.
- Magnuson-Stevens Act (16 U.S.C. 1855(b)). Requirement to consult with the National Marine Fisheries Service (NMFS) concerning all actions that may affect essential fish habitat (EFH).
- Fish and Wildlife Coordination Act (16 U.S.C. 661-667e). The NMFS and the United States Fish & Wildlife Service (USFWS), will provide comments and recommendations to the United States Army Corps of Engineers (ACOE) concerning the Section 404 Permits issued under the Clean Water Act and Section 10 Permits issued under the authority of the Rivers and Harbors Act.
- Section 4(f) determination (49 U.S.C. 303). Concerning impacts to public parks, recreation areas, or wildlife and waterfowl refuge of national, state, or local significance or land from a historic site of national, state, or local significance.
- Section 404 of the Clean Water Act of 1977 (33 U.S.C. 1344). Individual permit for placement of fill into waters of the U.S. (issued by the ACOE).
- Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 402). Requires Department of the Army permits (issued by the ACOE) for structures, work, or fill affecting navigable waters of the U.S.
- Section 307 of the Coastal Management Act of 1972, as amended (16 U.S.C. 1458(c)). Requires the applicant to certify that the project complies with the approved State Coastal Management Program and that the state concurs with the applicant's certification prior to the issuance of an ACOE permit and prior to the FAA's unconditional Airport Layout Plan approval.
- Fish and Wildlife Coordination Act of 1958 (16 U.S.C. 661-666). The FAA is consulting with USFWS, NMFS, the Alaska Department of Fish and Game (ADF&G), and the Alaska Department of Natural Resources (ADNR) to determine the effects of environmental changes and human activities within an impact area on non-game species and their habitat.
- Migratory Bird Treaty Act of 1981 (16 U.S.C. 703-712). The FAA is developing avoidance and minimization measures to be incorporated into the proposed projects to reduce possible impacts or "take" to protected migratory bird populations in the project region. Consultation with USFWS will continue through permitting and final project design.

- Bald and Golden Eagle Protection Act (50 C.F.R Part 22.23). The project would incorporate the USFWS's current National Bald Eagle Management Guidelines to protect bald and golden eagles.
- Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1421). The FAA is consulting with USFWS and NMFS concerning possible project effects on marine mammals.
- Endangered Species Act (16 U.S.C., Section 1531-1544). The FAA is preparing Biological Assessments (BA) in accordance with informal Endangered Species Act (ESA) consultation procedures. Both BAs were prepared in accordance with legal requirements set forth under Section 7 of the ESA and will be reviewed by their respective agencies (USFWS and NMFS).
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations. Requires the FAA to provide meaningful public involvement for minority and low income populations and provide analysis (including demographic analysis) that identifies and addresses potential impacts on these populations that may be disproportionately high and adverse.
- Section 402 of the Clean Water Act. The state was recently granted authority by EPA to administer most National Pollutant Discharge Elimination System (NPDES) permits. Consistent with EPA's delegation of the NPDES program and effective in 2009, the Alaska Department of Environmental Conservation (ADEC) would be the approving authority for future industrial stormwater discharge renewals associated with changes to the airport's stormwater management program and for stormwater discharge construction general permits for some actions evaluated in this EIS.
- Executive Order 11990, Protection of Wetlands. Requires federal agencies to ensure their actions minimize the destruction, loss, and degradation of wetlands. It also assures the protection, preservation, and enhancement of the nation's wetlands to the fullest extent practicable during the planning, construction, funding, and operation of transportation facilities and projects.
- National Historic Preservation Act of 1966. Concurrence from the Alaska State Historic Preservation Officer (SHPO) regarding the FAA determination of eligibility and effects on historic and cultural resources.
- Executive Order 11988, Floodplain Management. The Order directs Federal agencies to take actions to reduce the risk of flood loss, minimize flood impacts on human safety, health and welfare, and restore and preserve floodplain natural and beneficial values.

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Among the actions expected by the ADOT&PF to occur in the normal course of implementing the proposed project include:

- Application for federal financial assistance.
- Application for, and approval of, a building and grading permit.
- Land use approval.
- Construction of the Selected Alternatives.
- 49 U.S.C Section 47106 (a)(1) (*Project grant application approval*). Consistency with local land use planning. The ADOT&PF must provide a letter from the public agency authorized by the state to plan for the area surrounding the airport stating that the proposed actions are consistent with land use plans.
- 49 U.S.C. Section 47107(a)(10) (*Project grant application approval conditioned on assurances about airport operations*). The ADOT&PF must provide written assurance verifying that action has been taken, or will be taken, to restrict land uses near the airport as described in 49 U.S.C. 47107(a)(10).
- Application for the transfer of property rights needed for airport uses from USCG.
- Others identified throughout the EIS and permitting process.
- Comply with ANILCA Title XI and 43 CFR 36.1 requirements as a the applicant
- Negotiate terms for a new Airport lease with USCG
- Negotiate terms for a new Operating Agreement with USCG
- Negotiate terms for access to Kodiak Base for construction operation
- Negotiate terms for access to barge piers on the USCG Base for construction operations

Among the actions expected by the USCG, as a cooperating agency to occur in the normal course of implementing the proposed project include:

- Comply with ANILCA Title XI and 43 CFR 36.1 requirements as a reviewing agency.
- Negotiate terms for a new Airport lease with ADOT&PF
- Negotiate terms for a new Operating Agreement with ADOT&PF
- Negotiate terms for access to USCG Base for construction operation
- Negotiate terms for access to barge piers in Women's Bay for construction operations